

Page 1 of 2

CASE NO.: 36903

RESPONDENT NAME: NN BUSINESS, INC.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATIONS OCCURRED: 2214 Leopard Street, Corpus Christi, Nueces County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired October 26, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p>TCEQ Attorney: Mr. Phillip M. Goodwin, P.G., Litigation Division, MC 175, (512) 239-0675 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p>TCEQ Enforcement Coordinator: Ms. Suzanne Walrath, Waste Enforcement Section, MC 149, (512) 239-2134</p> <p>TCEQ Regional Contact: Mr. Brad Genzer, Corpus Christi Regional Office, MC R-14, (361) 825-3106</p> <p>Respondent: Mr. Ahmed Nisar, President, NN Business, Inc., 2214 Leopard Street, Corpus Christi, Texas 78409</p> <p>Respondent's Attorney: Mr. Brad Condit, Attorney at Law, 401 N. Tancagua Street, Corpus Christi, Texas 78401</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p> <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review </p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 29, 2008</p> <p>Date of NOE Relating to this Case: November 25, 2008</p> <p>Background Facts: The EDRP was filed April 29, 2009. The Respondent filed an answer and the case was referred to SOAH. Settlement was achieved and the Agreed Order was signed on August 7, 2009.</p> <p>Current Compliance Status: No outstanding Technical Requirements.</p> <p>PST:</p> <ol style="list-style-type: none"> Failed to conduct effective manual or automatic inventory control procedures for the UST system [30 TEX. ADMIN. CODE § 334.48(c)]. Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1)]. Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1% of the total substance flow through for the month plus 130 gallons [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1)]. Failed to record inventory volume measurements for regulated substance inputs, withdrawals, and the amounts still remaining in the tanks each operating day [30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1)]. Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years [30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d)]. 	<p>Total Assessed: \$ 6,676</p> <p>Total Deferred: \$0</p> <p> <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset </p> <p>Total Paid/Due to General Revenue: \$351/\$6,325</p> <p>The Respondent paid \$351 of the administrative penalty. The remaining amount of \$6,325 shall be payable in 23 monthly payments of \$275 each.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor </p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor </p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken: The Executive Director recognizes that the Respondent performed the following corrective actions at the Facility:</p> <ol style="list-style-type: none"> On December 5, 2008, tested and inspected the cathodic protection system (violation 5); On October 1, 2008, began reconciliation of detailed inventory control records at least once each month (violation 3); On October 1, 2008, began conducting and recording inventory volume measurements for regulated substance inputs, withdrawals, and amounts still remaining in the tanks each operating day (violation 1 and 4); and On January 20, 2009, implemented release detection for the UST system at the Facility (violation 2).



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	1-Dec-2008	Screening	5-Dec-2008	EPA Due	
	PCW	8-Apr-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	NN Business, Inc.		
Reg. Ent. Ref. No.	RN102357464		
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	36903	No. of Violations	3
Docket No.	2008-1892-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Suzanne Walrath
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$7,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 0.0% Enhancement Subtotals 2, 3, & 7 **\$0**

Notes No change due to average performer classification.

Culpability No 0.0% Enhancement Subtotal 4 **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5 **\$1,125**

Economic Benefit 0.0% Enhancement* Subtotal 6 **\$0**

Total EB Amounts \$311
Approx. Cost of Compliance \$4,290

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal **\$6,375**

OTHER FACTORS AS JUSTICE MAY REQUIRE

4.7%

Adjustment **\$301**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes An upward adjustment is recommended for avoided testing costs for Violation No. 3.

Final Penalty Amount **\$6,676**

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty **\$6,676**

DEFERRAL

0.0%

Reduction Adjustment **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes No deferral recommended for non expedited cases.

PAYABLE PENALTY **\$6,676**

Screening Date 5-Dec-2008

Docket No. 2008-1892-PST-E

PCW

Respondent NN Business, Inc.

Policy Revision 2 (September 2002)

Case ID No. 36903

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102357464

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Suzanne Walrath

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No change due to average performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 5-Dec-2008

Docket No. 2008-1892-PST-E

PCW

Respondent NN Business, Inc.

Policy Revision 2 (September 2002)

Case ID No. 36903

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102357464

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Suzanne Walrath

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.48(c)

Violation Description

Failed to conduct effective manual or automatic inventory control procedures for the underground storage tank ("UST") system.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

68 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

One quarterly event is recommended based on documentation of the violation during the September 29, 2008 investigation to the compliance date (October 1, 2008).

Good Faith Efforts to Comply

25.0%

Reduction

\$625

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance for this violation on October 1, 2008.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,964

This violation Final Assessed Penalty (adjusted for limits) \$1,964

Economic Benefit Worksheet

Respondent NN Business, Inc.
Case ID No. 36903
Reg. Ent. Reference No. RN102357464
Media Petroleum Storage Tank
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	29-Sep-2008	1-Oct-2008	0.01	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct proper inventory control procedures. Date required is the date of the investigation.
 Final Date is the date compliance was achieved.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$0

Screening Date 5-Dec-2008	Docket No. 2008-1892-PST-E	PCW		
Respondent NN Business, Inc.	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 36903	<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN102357464				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Suzanne Walrath				
Violation Number 2				
Rule Cite(s)	30 Tex. Admin. Code § 334.50(b)(1)(A), (d)(1)(B)(ii) and (iii)(i) and Tex. Water Code § 26.3475(c)(1)			
Violation Description	Failed to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring). Failed to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1% of the total substance flowthrough for the month plus 130 gallons. Failed to record inventory volume measurements for regulated substance inputs, withdrawals, and the amounts still remaining in the tanks each operating day.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Release	Harm		
		Major Moderate Minor		
	Actual			
	Potential	x		Percent 25%
>> Programmatic Matrix				
	Falsification	Major Moderate Minor		
				Percent 0%
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.			
Adjustment			\$7,500	
			\$2,500	
Violation Events				
Number of Violation Events		1	Number of violation days 68	
mark only one with an x	daily			
	weekly			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			
Violation Base Penalty			\$2,500	
One quarterly event is recommended based on documentation of the violation during the September 29, 2008 investigation to case screening date (December 5, 2008).				
Good Faith Efforts to Comply		10.0% Reduction	\$250	
	Before NOV	NOV to EDRP/Settlement Offer		
Extraordinary				
Ordinary		x		
N/A		(mark with x)		
Notes	The Respondent achieved compliance for this violation on January 20, 2009.			
Violation Subtotal			\$2,250	
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	\$10	Violation Final Penalty Total	\$2,356	
This violation Final Assessed Penalty (adjusted for limits)			\$2,356	

Economic Benefit Worksheet

Respondent NN Business, Inc.
Case ID No. 36903
Reg. Ent. Reference No. RN102357464
Media Petroleum Storage Tank
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment	\$3,000	29-Sep-2008	1-Oct-2008	0.01	\$0	\$1	\$1
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$540	29-Sep-2008	20-Jan-2009	0.31	\$8	n/a	\$8

Notes for DELAYED costs

Estimated cost to monitor the UST system for releases, implement a release detection system, conduct monthly reconciliation of inventory control records, and record inventory volume measurements in the tanks each operating day. The date required is the date of the investigation. The final dates are the date compliance was achieved for the reconciliation of the inventory control records and the volume measurement recording, and the date of compliance for the implementation of release detection for the UST system.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,540

TOTAL

\$10

Screening Date 5-Dec-2008 Respondent NN Business, Inc. Case ID No. 36903 Reg. Ent. Reference No. RN102357464 Media [Statute] Petroleum Storage Tank Enf. Coordinator Suzanne Walrath Violation Number 3 Rule Cite(s) 30 Tex. Admin. Code § 334.49(c)(4) and Tex. Water Code § 26.3475(d)	Docket No. 2008-1892-PST-E Policy Revision 2 (September 2002) PCW Revision October 30, 2008	PCW
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Violation Description	Failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years.
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Base Penalty	\$10,000
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>> Environmental, Property and Human Health Matrix

OR	Release	Major	Harm Moderate	Minor		
	Actual					
	Potential	X				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor		
				Percent 0%	

Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.
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Adjustment	\$7,500
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Adjustment	\$2,500
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Violation Events

Number of Violation Events 1	365	Number of violation days
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mark only one with an x	daily weekly monthly quarterly semiannual annual single event	
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Violation Base Penalty	\$2,500
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One single event is recommended for the three year period preceeding the September 29, 2008 investigation.	
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Good Faith Efforts to Comply	10.0% Reduction	
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	Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary			
Ordinary		X	
N/A		(mark with x)	

Notes	The Respondent achieved compliance for this violation on December 5, 2008.
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Violation Subtotal	\$2,250
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Economic Benefit (EB) for this violation	Statutory Limit Test
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Estimated EB Amount	\$301
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Violation Final Penalty Total	\$2,356
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This violation Final Assessed Penalty (adjusted for limits)	\$2,356
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Economic Benefit Worksheet

Respondent: NN Business, Inc.

Case ID No. 36903

Reg. Ent. Reference No. RN102357464

Media Petroleum Storage Tank

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$250	29-Sep-2005	5-Dec-2008	4.10	\$51	\$250	\$301
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

This is the actual avoided cost for completing the triennial test. The date required is three years preceding the investigation. The final date is the date compliance was achieved.

Approx. Cost of Compliance

\$250

TOTAL

\$301

Compliance History Report

Customer/Respondent/Owner-Operator: CN602936940 NN Business, Inc. Classification: AVERAGE Rating: 3.01
Regulated Entity: RN102357464 NN BUSINESS Classification: AVERAGE Site Rating: 3.01
BY DEFAULT
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 18571
REGISTRATION
Location: 2214 LEOPARD ST, CORPUS CHRISTI, TX, 78408
TCEQ Region: REGION 14 - CORPUS CHRISTI
Date Compliance History Prepared: December 05, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: December 05, 2003 to December 05, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Suzanne Walrath Phone: 239 - 2134

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 11/25/2008 (704164)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
NN BUSINESS, INC.;
RN102357464

§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2008-1892-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding NN Business, Inc. ("NN") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and NN, represented by Brad Condit, Attorney at Law, appear before the Commission and together stipulate that:

1. NN operates a convenience store with retail sales of gasoline located at 2214 Leopard Street, Corpus Christi, Nueces County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and NN agree that the Commission has jurisdiction to enter this Agreed Order, and that NN is subject to the Commission's jurisdiction.
4. NN received notice of the violations alleged in Section II ("Allegations") on or about November 30, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by NN of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of six thousand six hundred seventy-six dollars (\$6,676.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). NN paid three hundred fifty-one dollars (\$351.00) of the administrative penalty. The remaining amount of six thousand three hundred twenty-five dollars (\$6,325.00) of the administrative penalty shall be payable in 23 monthly payments of two hundred seventy-five dollars (\$275.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If NN fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, NN's failure to meet the payment schedule of this Agreed Order constitutes the failure by NN to timely and satisfactorily comply with all of the terms of this Agreed Order
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and NN agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that NN has implemented the following corrective measures at the Facility:
 - a. On December 5, 2008, tested and inspected the cathodic protection system;
 - b. On October 1, 2008, began reconciliation of detailed inventory control records at least once each month;
 - c. On October 1, 2008, began conducting effective manual or automatic inventory control procedures for the UST system.
 - d. On October 1, 2008, began conducting and recording inventory volume measurements for regulated substance inputs, withdrawals, and amounts still remaining in the tanks each operating day; and
 - e. On January 20, 2009, implemented release detection for the UST system at the Facility.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if

the Executive Director determines that NN has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During an investigation conducted on September 29, 2008, a TCEQ Corpus Christi Regional Office investigator documented that NN violated the following requirements:
 - a. 30 TEX. ADMIN. CODE § 334.48(c) by failing to conduct effective manual or automatic inventory control procedures for the UST system.
 - b. 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. WATER CODE § 26.3475(c)(1) by failing to monitor USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).
 - c. 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(ii) and TEX. WATER CODE § 26.3475(c)(1) by failing to conduct reconciliation of detailed inventory control records at least once each month, sufficiently accurate to detect a release which equals or exceeds the sum of 1% of the total substance flowthrough for the month plus 130 gallons.
 - d. 30 TEX. ADMIN. CODE § 334.50(d)(1)(B)(iii)(I) and TEX. WATER CODE § 26.3475(c)(1) by failing to record inventory volume measurements for regulated substance inputs, withdrawals, and the amounts still remaining in the tanks each operating day.
 - e. 30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. WATER CODE § 26.3475(d) by failing to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years.

III. DENIALS

NN generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

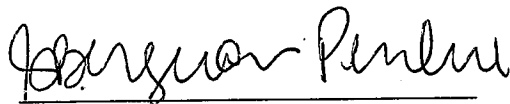
1. It is, therefore, ordered by the TCEQ that NN pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and NN's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: NN Business, Inc., Docket No. 2008-1892-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon NN. NN is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against NN in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to NN, or three days after the date on which the Commission mails notice of the Order to NN, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

9/23/09

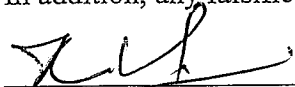
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on NN's compliance history;
- Greater scrutiny of any permit applications submitted by NN;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against NN;
- Automatic referral to the Attorney General's Office of any future enforcement actions against NN; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

8.7.09

Date

Nisar Ahmed

Name (Printed or typed)

Authorized representative of
NN Business, Inc.

President

Title